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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/614,511	07/08/2003	Nobuhiro Aihara	009683-473	7620	
BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. Box 1404  ROSARIO, DENNIS			EXAMINER		
			DENNIS		
Alexandria, V	A 22313-1404		ART UNIT PAPER NUMBER		
		•	2624		
SHORTENED STATUTOR	RY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
31.1	DAYS	03/30/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)				
	10/614,511	AIHARA, NOBUHIR	RO			
Office Action Summary	Examiner	Art Unit				
	Dennis Rosario	2624				
The MAILING DATE of this commun Period for Reply	ication appears on the cover shee	t with the correspondence add	ress			
A SHORTENED STATUTORY PERIOD F WHICHEVER IS LONGER, FROM THE M - Extensions of time may be available under the provisions after SIX (6) MONTHS from the mailing date of this comn - If NO period for reply is specified above, the maximum st - Failure to reply within the set or extended period for reply Any reply received by the Office later than three months a earned patent term adjustment. See 37 CFR 1.704(b).	IAILING DATE OF THIS COMMU of 37 CFR 1.136(a). In no event, however, ma nunication. atutory period will apply and will expire SIX (6) I will, by statute, cause the application to becom	INICATION.  by a reply be timely filed  MONTHS from the mailing date of this content of the cont	•			
Status						
1) Responsive to communication(s) file	ed on <u>08 July 2003</u> .					
2a) ☐ This action is FINAL.	2b)⊠ This action is non-final.					
·—	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practi	ce under <i>Ex parte Quayle</i> , 1935 (	C.D. 11, 453 O.G. 213.				
Disposition of Claims						
4)  Claim(s) 1-16 is/are pending in the a 4a) Of the above claim(s) is/a 5)  Claim(s) is/are allowed. 6)  Claim(s) is/are rejected. 7)  Claim(s) is/are objected to. 8)  Claim(s) 1-16 are subject to restricti	re withdrawn from consideration.	·				
Application Papers						
9) The specification is objected to by th 10) The drawing(s) filed on <u>08 July 2003</u> Applicant may not request that any objected to replacement drawing sheet(s) including	is/are: a)⊠ accepted or b)□ ob ction to the drawing(s) be held in abe the correction is required if the draw	eyance. See 37 CFR 1.85(a). ving(s) is objected to. See 37 CFF				
Priority under 35 U.S.C. § 119						
a) Acknowledgment is made of a claim a) All b) Some * c) None of:  1. Certified copies of the priority 2. Certified copies of the priority 3. Copies of the certified copies application from the Internation * See the attached detailed Office action	documents have been received. documents have been received i of the priority documents have be onal Bureau (PCT Rule 17.2(a)).	in Application No een received in this National S	Stage			
Attachment(s)	, <b>, , , , , , , , , , , , , , , , , , </b>	our Summons (DTO 442)				
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (F3)</li> <li>Information Disclosure Statement(s) (PTO/SB/08)</li> <li>Paper No(s)/Mail Date</li> </ol>	PTO-948) Paper 5) Notice	ew Summary (PTO-413) No(s)/Mail Date of Informal Patent Application				

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## **DETAILED ACTION**

## Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-13, drawn to extracting area, classified in class 382, subclass286: measuring an area.
- II. Claim 14, drawn to position, classified in class 382, subclass 216: multiple positions.
- III. Claims 15,16, drawn to size, classified in class 382, subclass 190: feature extraction.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I,II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as determining multiple positions. See MPEP § 806.05(d).

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3. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

- 4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
- 5. A telephone call was made to William Rowland, Registration No.: 30888 on 3/27/2007 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

## Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Rosario whose telephone number is (571) 272-7397. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DD Dennis Rosario Unit 2624

> MATTHEW C. BELLA SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2600

Marches C. Bella